



DEPARTMENT OF HOMELAND SECURITY

[Docket No. USCBP-2021-0051]

Privacy Act of 1974; System of Records

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to modify, retitle, and reissue a current DHS system of records titled, “DHS/U.S. Customs and Border Protection (CBP)-025 National Frontline Recruitment Hiring System of Records.” This system of records allows DHS/CBP to collect and maintain records on individuals for the purpose of marketing information related to CBP employment, managing communication with potential applicants or individuals who attend career fairs or meetings at which CBP maintains a presence for recruitment and hiring, and for other recruitment and hiring activities for which mailing or contact lists may be created. DHS/CBP is updating this system of records notice to (1) change the name of the system of records to “CBP Recruitment and Hiring System of Records;” (2) expand the category of individuals covered by the system to include all potential applicants for employment with CBP; (3) update the authority for maintenance of this system; (4) modify the retention and disposal of records; and (5) expand the category of records to include disability status and education. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This modified system will be included in DHS’s inventory of record systems.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. New or modified routine uses

will be effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by docket number USCBP-2021-0051 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-343-4010.
- Mail: Lynn Parker Dupree, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, D.C. 20528-0655.

Instructions: All submissions received must include the agency name and docket number USCBP-2021-0051. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact:

Debra L. Danisek, CBP Privacy Officer, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.3D, Washington, D.C. 20229,

Privacy.CBP@cbp.dhs.gov or (202) 344-1610. For privacy questions, please contact:

Lynn Parker Dupree, (202) 343-1717, Privacy@hq.dhs.gov, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, D.C. 20528-0655.

SUPPLEMENTARY INFORMATION:

I. Background

CBP is modifying, retitling, and reissuing DHS/CBP-025 National Frontline Recruitment and Hiring System of Records. CBP is updating this SORN to re-name and expand the purpose of the existing SORN to “CBP Recruitment and Hiring System of Records,” eliminating the term “National Frontline” since CBP conducts recruitment and

hiring outreach across all CBP positions within the United States and abroad. CBP uses records covered by this SORN to recruit and retain a world-class civilian and law enforcement workforce as one of CBP's top mission support priorities. Through recruitment outreach, market research, data analytics, advertising, technology innovations, call center support, and marketing services, CBP conducts recruitment and hiring campaigns to meet staffing requirements. These targeted efforts identify potential applicants and help them navigate the complex and multi-step hiring process for CBP positions.

CBP is expanding the category of individuals contained in this SORN to include all applicants for any CBP civil service and law enforcement recruitment opportunities within the United States and abroad, instead of only providing coverage for CBP national frontline law enforcement positions. To generate a sufficient number of qualified applicants and meet aggressive recruiting goals, CBP must cultivate a large volume of interested and well-qualified applicants for all positions.

CBP is removing references to Executive Order 13767, Border Security and Immigration Enforcement Improvements, as an authority for the maintenance of the system because it was revoked by a subsequent Executive Order. CBP is now relying on 5 U.S.C. sec. 2301(b)(1)–(2), Merit system principles; 5 U.S.C. sec. 3101, General authority to employ; 5 U.S.C. sec. 3301, Civil service; generally; Section 501 of the Rehabilitation Act of 1973; Americans with Disability Act (ADA) Amendments of 2008; Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce (June 25, 2021); and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 10, 2010) as the authority for maintaining the system.

CBP is modifying this SORN to update the retention and disposal of records to reflect the most recent National Archives and Records Administration (NARA)-approved

records schedule which permits CBP to retain records in the system for five years.

Finally, in support of CBP's affirmative action plans, pursuant to 29 U.S.C. sec. 791 and 29 C.F.R. 1614.203, subparagraphs (d), we are expanding the category of records to include the disability status and education to allow individuals who are interested in CBP to voluntarily self-identify and permit CBP to direct the individual to the correct CBP recruitment office.¹ CBP conducts coordinated initiatives in support of recruitment and hiring, including: (1) marketing, branding, and public opinion research; (2) direct advertising to individuals who have expressed an interest in employment opportunities with CBP; (3) direct advertising to individuals who have expressed an interest in employment opportunities to a third-party for employment purposes, who have affirmed that they may be contacted by potential employers; and (4) communication with individuals who have provided their information to CBP, including response to screening questions, in support of the preliminary application process. These activities might entail the collection of limited biographic information, contact information, and information pertinent to employment from members of the public who have not yet applied for a CBP job announcement.

This SORN provides coverage for CBP's recruitment and hiring efforts. The SORN does not cover records associated with the formal hiring process once a potential applicant submits a formal application for employment. The Office of Personnel Management (OPM) is responsible for all hiring activities for employment with Federal agencies. For these activities, the relevant Office of Personnel Management SORNs continue to apply.

¹ The Americans with Disability Act and the Equal Employment Opportunity Commission (EEOC) provide specific guidance when asking applicants to self-identify and the request is pursuant to an agency's affirmative action program. *See* EEOC Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations, No. 915.002 (Oct. 10, 1995), available at <https://www.eeoc.gov/laws/guidance/enforcement-guidance-preemployment-disability-related-questions-and-medical>.

Consistent with DHS's information sharing mission, information stored in the DHS/CBP-025 CBP Recruitment and Hiring System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/CBP may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This modified system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act codifies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the Judicial Redress Act, along with judicial review for denials of such requests. In addition, the Judicial Redress Act prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/CBP-025 CBP Recruitment and Hiring System of Records.

In accordance with 5 U.S.C. sec. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER: Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)-025 CBP Recruitment and Hiring System of Records.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: DHS/CBP maintains records at its Headquarters at 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, and in field offices, and contractor-owned and operated facilities. DHS/CBP stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media and will be maintained within a CBP web portal.

SYSTEM MANAGER(S): Executive Assistant Commissioner, Enterprise Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, D.C. 20029.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 5 U.S.C. sec. 302, Delegation of authority; 5 U.S.C. sec. 2301(b)(1)–(2), Merit system principles; 5 U.S.C. sec. 3101, General authority to employ; 5 U.S.C. sec. 3301, Civil service; generally; Section 501 of the Rehabilitation Act of 1973; Americans with Disability Act Amendments of 2008; Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce (June 25, 2021); Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 10, 2010).

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to conduct recruitment, marketing, outreach, and advertising to potential candidates for all CBP positions located in the United States and abroad; generate leads and maintain lists of potential applicants for recruiting purposes based on commercially available demographic or subscription lists or from community, civic, educational institutions, military, and other sources; identify quality leads based on pre-screening question

responses; manage all tracking and communications with potential leads and conduct outreach to attract applicants during the hiring process; maintain logs and respond to applicant questions from a national call center; reengage withdrawn applicants for hiring positions and invite them to reapply to CBP opportunities; and conduct data analytics for recruitment strategies, to measure the effectiveness of outreach campaigns. CBP invites candidates to voluntarily self-identify their disability status for purposes of CBP's affirmative action program, which includes those policies, practices, and procedures to ensure that all qualified individuals and potential applicants receive an equal opportunity for recruitment, selection, advancement, and every other term and privilege associated with CBP employment opportunities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Potential applicants or individuals interested in CBP employment opportunities covered by the system include:

1. Individuals who express interest in any CBP position and voluntarily provide information to CBP.
2. Individuals who withdraw from the hiring process for CBP positions.
3. Individuals who receive targeted marketing information from CBP to apply for a CBP position based on commercially available mailing lists (e.g., particular magazine or cable channel subscribers) or from community, civic, educational institutions, military, and other sources.

CATEGORIES OF RECORDS IN THE SYSTEM: CBP maintains various types of information related to recruiting and outreach records for CBP positions located in the United States and abroad, including:

- First and last name;
- Age or date of birth;

- Disability status;²
- Gender;
- Phone numbers;
- Email addresses;
- Mailing addresses, including ZIP code;
- Military status (e.g., veteran, active duty);
- Other biographic and contact information voluntarily provided to DHS by individuals covered by this system of records solely for recruitment and hiring activities;
- Computer-generated identifier or case number when created in order to retrieve information; and
- Status of opt-in/consent to receive targeted marketing and advertising based on the individual's expressed area of interest in CBP employment opportunities;
- Responses to pre-screening questions, including information related to: (1) an individual's possession of, or eligibility to, carry a valid driver's license (yes or no response only); (2) any reason why the individual may not be able to carry a firearm (yes or no response only); (3) interest level in CBP employment; (4) U.S. residency information (limited to length of residency only); (5) education related questions; and (6) any additional information in support of preliminary hiring activities.

RECORD SOURCE CATEGORIES: CBP may obtain records about potential applicants in this system either directly from the individual, from a third party with whom the individual has granted permission to share his or her information with potential employers, or from community, civic, educational institutions, military, and other

² Self-identified, in support of CBP's affirmative action plans pursuant to 29 U.S.C. sec. 791 and 29 C.F.R. 1614.203(d).

sources. CBP will obtain records about withdrawn applicants from existing internal CBP human resources systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. sec. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. sec. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys' Offices, or other federal agencies conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity, only when the Department of Justice or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. secs. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another federal agency or federal entity, when DHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: DHS/CBP stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: DHS/CBP retrieves records by an individual's name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: In accordance with General Records Schedule (GRS) 2.1, Item 180, DHS/CBP will delete records when superseded, obsolete, or when an individual submits a request to the agency to remove the records. In general, and unless it receives a request for removal, CBP will maintain these records for five years, after which point, they will be considered obsolete and no longer necessary for CBP operations.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: DHS/CBP safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/CBP has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES: Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and DHS/CBP's Freedom of Information Act Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "Contact Information." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information

Act Officer, U.S. Department of Homeland Security, Washington, D.C. 20528-0655 or electronically at <https://www.dhs.gov/dhs-foia-privacy-act-request-submission-form>. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. sec. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In addition, the individual should:

- Explain why he or she believes the Department would have information being requested;
- Identify which component(s) of the Department he or she believes may have the information;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the DHS staff determine which DHS component agency may have responsive records;

If the request is seeking records pertaining to another living individual, the request must include an authorization from the individual whose record is being requested, authorizing the release to the requester.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES: For records covered by the Privacy Act or covered Judicial Redress Act records, see “Record Access Procedures” above.

NOTIFICATION PROCEDURES: See “Record Access Procedures” above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: 83 Fed. Reg. 27014 (June 11, 2018).

Lynn P Dupree,
Chief Privacy Officer,
Department of Homeland Security.
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